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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,487	03/11/2004	Steven B. Dunn	MBI-1138DIV	6295

21302 7590 09/14/2004

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EXAMINER


NGUYEN, SON T

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 09/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/798,487	DUNN ET AL. 	
	Examiner	Art Unit	
	Son T. Nguyen	3643	

**– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –
Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/11/04, 5/24/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicants have cancelled claims 1-11,19. Pending claims are 12-18.

Priority

2. This application filed under former 37 CFR 1.60 lacks the necessary reference to the prior application. A statement reading "This is a divisional of Application No. 10/370922, filed 2/20/03." should be entered following the title of the invention or as the first sentence of the specification. Also, the current status of all nonprovisional parent applications referenced should be included.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 12,13 & 15** are rejected under 35 U.S.C. 102(b) as being anticipated by GB2312366A (herein 366).

For claim 12, 366 discloses an apparatus for dispensing and applying a styptic material to a nail of an animal, comprising: a container 2 having a styptic material disposed therein, said container having a dispensing opening 11 through which styptic material from the container may be dispensed; and a rigid application surface 14 that is adjacent to said dispensing opening.

For claim 13, 366 discloses means 4 for advancing styptic material out of the container.

For claim 15, 366 discloses means for advancing styptic material out of the container comprises a screw press mechanism 8.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 14,16-18** are rejected under 35 U.S.C. 103(a) as being unpatentable over 366 (as above) in view of US 5676643 (herein 643).

For claim 14, 643 teaches a dispenser 80 for applying a styptic material comprising a rigid concave application surface 83. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a rigid concave application surface as taught by 643 in the apparatus of 366 in order to contour with the treatment surface that the dispenser is used thereon.

For claim 16, in addition to the above, the application surface of 643 comprises a bowl shaped element 81. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a bowl shaped element as taught by 643 in the apparatus of 366 in order to contour with the treatment surface that the dispenser is used thereon. The bowl shaped element, once put on the apparatus of 366, will be integral with the container as a whole unit.

For claim 17, once placed on ref. 11 of 366 as modified by 643, the bowl-shaped element is angled with respect to a longitudinal axis of the container 2 because, originally, ref. 11 is already angled with respect to the longitudinal axis of container 2.

For claim 18, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the bowl-shaped element of 366 as modified by 643 angled with respect to a longitudinal axis of the container at an angle that is within a range of about plus 45 degrees to about minus 45 degrees, since it has been held that where routine testing and general experimental conditions are present, discovering the optimum or workable ranges until the desired effect is achieved involves only routine skill in the art.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son T. Nguyen whose telephone number is (703) 305-0765. The examiner can normally be reached on Monday - Friday from 9:00 a.m. to 5:00 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon, can be reached at (703) 308-2574. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Customer Service at (703) 872-9325. The official fax number is 703-872-9306.



Son T. Nguyen
Primary Examiner, GAU 3643
September 11, 2004